



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,018	04/15/2004	Arthur W. Simpson	IPM1.PAU.05	7490

7590 05/04/2005

Vic Y. Lin
MYERS DAWES ANDRAS & SHERMAN LLP
Suite 1150
19900 MacArthur Blvd.
Irvine, CA 92612

EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
----------	--------------

3643

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/825,018

Applicant(s)

SIMPSON ET AL.

Examiner

Kurt Rowan

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-13 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-13 and 17-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 6, 7, 8, 11, 21, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dagenais in view of Nishimura et al.

The patents to Dagenais and Nishimura show adhesive traps. The patent to Dagenais shows a rodent trap having an elongated tube 2 with an adhesive 4 and first and second end caps 6. In reference to claim 1, Nishimura shows first 6 and second 6 flat axial portions of the tube in Figs. 3, 4 and 7-11. Nishimura shows the adhesive disposed solely along a central radial portion of the trap in Figs. 7, 12, 14. In reference to claims 1, 12, 21, it would have been obvious to provide the trap of Dagenais with flat first and second axial portions that are perpendicular to each for the purpose of using the trap against walls without rolling. In reference to claim 2, it would have been obvious to provide Dagenais with a disinfectant as shown by Nishimura for the purpose of killing bacteria associated with the pest. This would result in the disinfectant located in the elongated tube in the adhesive. Further, it would have been obvious to locate the disinfectant in the end caps since the location of the disinfectant is a matter of design choice noting the specification of the present invention states (page 7, lines 18-20) that

Art Unit: 3643

the disinfectant may be located on the inner surface of the tube or on an inner surface of the end caps. In reference to claim 1, Dagenais shows adhesive disposed along a central portion of the inner tube. In reference to claim 6, Dagenais discloses a rodent attractant 3 disposed within the tube 2. In reference to claims 21, 25, see column 3, lines 1-6. Dagenais does not disclose a disinfectant. The patent to Nishimura shows a trap with a disinfectant combined with the adhesive as in column 5, line 62.

3. Claims 9-10, 12, 13, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dagenais and Nishimura as applied to claim 1 above, and further in view of Cairns.

The patents to Dagenais and Nishimura show traps as discussed above. Dagenais shows an adhesive elongate tube trap as discussed above, but does not disclose a circumferential flange on the end caps. The patent to Cairns shows a rodent trap having an end cap 30 with a circumferential flange (not labeled) engaging threaded port 28. In reference to claims 9, 12, it would have been obvious to provide Dagenais as modified by Nishimura with a flanged or threaded end cap as shown by Cairns for the purpose of providing a more positive seal and the function is the same. In reference to claim 10, Dagenais shows a shoulder on the end cap adapted to abut an end surface of the tube. In reference to claim 17, Dagenais shows a rodent attractant 3 disposed within the tube. In reference to claims 18-20, Dagenais discloses that the end cap seals are air tight and it would be inherent that the end caps and the seals would also be water tight.

Art Unit: 3643

4. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dagenais in view of Nishimura as applied to claim 21 above, and further in view of Hover, Sr. et al.

The patents to Dagenais and Nishimura show a rodent trap with an adhesive tube as discussed above. Dagenais does not disclose drowning the trapped rodents but suffocating the rodents in column 3, lines 1-6. The patent to Hover discloses drowning the rodents by submerging the elongate tube with a trapped rodent in water as disclosed in column 2, lines 37-48. In reference to claim 22, it would have been obvious for Dagenais in view of Nishimura to drown the rodents as shown by Hover by filling the tube with water after sealing the first open end. Further, in reference to claim 23, it would have been obvious to drown the rodents by filling the elongate tube with water and then sealing the second end of the tube to prevent water from escaping from the tube since the function is the same. The disinfectant of Nishimura appears to be active at all times both in air and in water. At any rate, it would have been obvious to employ a disinfectant that was water active to kill the bacteria when drowning the rodent.

5. Claims 1, 6, 7, 8, 11, 12, 17, 18, 19, 20, 21, 22, 23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dagenais in view of Otterson.

The patents to Dagenais and Otterson show traps. Dagenais has been discussed above and shows all of the elements recited with the exception of the adhesive being disposed solely along a central radial portion of the tube. Dagenais shows adhesive along the entire tube. Dagenais does not show first and second flat portions with the

Art Unit: 3643

second flat portion perpendicular to the first axial portion. Otterson shows a pest trap in Figs. 8-11 having first and second flat axial portions 52, 54 perpendicular to each other and an adhesive 68 disposed solely along a central radial portion of the tube. In reference to claims 1, 12, and 21, it would have been obvious to provide Dagenais with first and second flat axial portions and adhesive along the central radial portion of the trap as shown by Otterson to use the trap against walls and to get a larger portion of the rodent inside the trap before capture.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 2, 6-13, and 17-25 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's arguments filed January 18, 2005 have been fully considered but they are not persuasive. Applicant argues that Dagenais is not watertight. However, Dagenais discloses that the trap is airtight in column 3, lines 1-6. applicant uses the terms airtight and watertight interchangeably as on page 2 of the specification, line 11. The fact that a water molecule is larger than oxygen or other elements that make up air means that if a component is airtight it would also be watertight.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3643

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is (571) 272-6893. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kurt Rowan
Primary Examiner
Art Unit 3643

KR